IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHAHAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

FAO.No. 161 of 2003()

AGAINST THE ORDER DATED 19/07/2003 IN IA 6375/2001 IN OS.753/2001 of II ADDL.SUB COURT,ERNAKULAM

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APPELLANT/PETITIONER/PLAINTIFF.

CHANDRA TOWERS APARTMENT OWNERS ASSOCIATION, REG.NO.ER/528/2000 CHANDRA TOWERS, SAHODARAN AYYAPPAN ROAD, VYTTILA JUNCTION, VYTTILA KOCHI -19 REP. BY ITS PRESIDENT ANIL VARGHESE.

BY ADV. SRI.K.J.KURIACHAN

RESPONDENTS: RESPONDENT/DEFENDANTS.
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1. PROF.K.RAMACHANDRA KURUP, S/O.LATE RAMAKURUP AGED 81 YEARS, RESIDING AT MANAYIL HOUSE, VYTTILA, KOCHI -19.

2. AMBUJAM, W/O.PROF.RAMACHANDRA KURUP, AGED 70 YEARS, RESIDING AT MANAYIL HOUSE, VYTTILE, KOCHI -19.

3. R.C.SREEKUMAR, S/O.PROF.RAMACHANDRA KURUP, AGED 50 YEARS, RESIDING AT MANAYIL HOUSE, VYTTILA, KOCHI-19.

4. SREEDEVI, W/O.O.T.J.NAMBIAR, AGED 47, RESIDING AT AISWARYA, VYTTILA, KOCHI-19.

5. GEETHA KUMARI, D/O.PROF.RAMACHANDRA KURUP, AGED 43, RESIDING AT MANAYIL HOUSE, VYTTILA, KOCHI-19.

6. USHAKUMARI, W/O.VIJAYAN, AGED 41, RESIDING AT KALARIKKAL HOUSE, PALA.

7. M/S.YASORAM CONSTRUCTION COMPANY, A REGISTERED PARTNERSHIP FIRM REP. BY ITS MANAGING PARTNER, A.R.SREEDHARA VADHYAR, S/O.RAMACHANDRA VADHYAR, AGED 54, R/A.YASORAM CONVENT ROAD, ERNAKULAM.

8. S.PADMANABHAN, JAYA NIVAS,
NEAR KRISHNA TEMPLE, RAVIPURAM, KOCHI -16.

R8 BY ADV. SRI.SUJITH MATHEW
R1 TO R6 BY ADV. SRI.P.BABU KUMAR

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 17/12/2007, ALONG WITH FAO NO. 164 OF 2003, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & V. K. MOHANAN, JJ.

F.A.O. NOS. 161 & 164 OF 2003

DATED THIS, THE 17TH DAY OF DECEMBER, 2007.

J U D G M E N T

Raman, J.

Both the above appeals are connected as they arise from the same suit. The appellants are the plaintiffs. The suit is one for recovery of the amount alleged to have been spent by the proposed residents of a flat and the respondents are the builders. During the pendency of the suit, there was an application for attachment of the properties belonging to the defendant as also an application for appointing the appellants as receivers of the building in question. Both these applications were dismissed against which two appeals are filed as early as in 2003. Subsequently, the suit itself was posted for trial and the trial has already started and part of the evidence is already recorded. In the circumstances, considering the balance of convenience and all other things, we do not think it is appropriate to grant any interim relief rather to direct the suit itself be disposed of expeditiously.

2. Accordingly, we direct the Additional Sub Court, Ernakulam to hear and dispose of O.S. 753/2001 expeditiously, at any rate, within a

period of four months. Whatever observations contained in the impugned orders will not prejudice the right of parties and untrammelled by such observation, the court shall dispose of the suit based on the materials produced by the parties.

Both the appeals are disposed of as above.

P.R. RAMAN,
(JUDGE)

V. K. MOHANAN,
(JUDGE)

knc/-